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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/599,971	10/21/2008	Nerino Grassi	72390	7504		
23872	7590	03/22/2012	EXAMINER			
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227				SUTTON, ANDREW W		
ART UNIT		PAPER NUMBER				
3765						
MAIL DATE		DELIVERY MODE				
03/22/2012		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/599,971	GRASSI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ANDREW SUTTON	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 October 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) Claim(s) 1-57 is/are pending in the application.
  - 5a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 6) Claim(s) \_\_\_\_\_ is/are allowed.
- 7) Claim(s) 1-35,37,38 and 46-57 is/are rejected.
- 8) Claim(s) 36 and 39-45 is/are objected to.
- 9) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on 21 October 2008 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/17/06</u> .  | 6) <input type="checkbox"/> Other: _____.                         |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-7, 21, 29-31, 34, 46-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant claims “..the second end being the leading end...the first end being the leading end.” How can both ends be the leading end? It is unclear to the examiner as to what the applicant is trying to claim.

As to claim 21, the applicant claims “between the two retaining elements of at least one pair...,” which is confusing. The applicant needs to clarify what they are trying to claim.

As to claim 29-31 and 37-45, the applicant references rectilinear guide that is not defined by the specification. It is unclear to the examiner as to what the applicant is trying to claim. Correction is needed.

As to claim 34, A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and

then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 34 recites the broad recitation rectangular, and the claim also recites square which is the narrower statement of the range/limitation.

As to claims 46-57, the applicant references an operative head and contacting members that are not defined in the specification. It is unclear to the examiner as to what the applicant is trying to claim. The language, "...controlled to move one towards and away from one another...", is confusing and unclear. Correction is needed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12, 29-31, 37-38, as best understood, rejected under 35 U.S.C. 102(b) as being anticipated by Bell (WO 95/27097). Bell teaches a machine for handling tubular knitted articles, like socks, with a first and second end comprising:

A tubular member 181 to transport the articles;

A container 75 in which articles are randomly disposed;

A pickup member 87 to pick up individual articles from container;

A feed path of the articles (Fig. 8);

A detection means 131 and to identify the orientation of the article along said path

A stretching device 167 to stretch an open end of an article and load said article onto tubular member 181;

Members to discard articles oriented with the first end farther forward than the second end with respect to the direction other feed of the article along the path and to feed forward the stretching device articles oriented with the second end farther forward than the first end with respect to the direction of the feed (see claim 33).

As to claims 2-3, the device is capable of orienting the sock in either direction.

As to claim 4, Bell teaches a second pickup member 62.

As to claim 5, Bell further teaches detection means 130.

As to claims 6-7, Bell further teaches additional detection means 99 disposed along the vertical trajectory of the pickup member 86.

As to claim 8, Fig. 8 teaches the conveyor 113 which has detection means (140, 131, 130, etc) disposed on the conveyor.

As to claim 9, Bell teaches a recirculation path 105 along the conveyor 113 which feeds path towards container 75.

As to claim 10, teaches the recirculation 105 path extends from a position along said conveyor towards the container 75.

As to claim 11, the recirculation path 105 is pneumatic.

As to claim 12, Bell teaches the vast length of transfer pipe 113 between the pickup member 86 and the stretching device 167 that would serve as a storage buffer.

As to claim 29, Bell teaches a pickup station (Fig. 14 with a rectilinear guide 185 having a plurality of pickup engagement elements 166/167 which would have been capable to take on various geometry of articles.

As to claim 30, the engaging elements 166/167 would have the sock in a rectilinear configuration where the hanging sock would have a toe that was divided into two parts at the seam.

As to claim 31, the form 181 is a flatten form and carries the device to the processing means (Fig. 14).

As to claims 37-38, Bell teaches the pickup member 86 being composed of a plurality of needles 87/88 which are capable of being extracted from the sock to let the sock go into the tube 103a.

Claims 46 and 52-57, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Bertram (US 5,904,279). Bertram teaches a tubular member for receiving a knitted tubular article having a front end and sidewall with an operative head 27 arranged in front of said front end being arranged and controlled to move one towards and away from another along the axis substantially parallel to the tubular member with a plurality of contacting members 29.

As to claim 52, the pads 29 would provide pressure.

As to claim 53-54, the device would inherently have to have an oscillating member to oscillate the head 27 to and from the tubular member (parallel of the axis) for it to function removing the stocking and since the contacting member are part of the machine of Bertram, it would inherently have common supporting member.

As to claim 55-57, the method claims are taught in the apparatus rejection above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-22 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (WO 95/27097) in view of Bagni (US 2004/0108343). As to claim 13, Bell illustrates (Fig. 14) a plurality of forms 181 for transferring articles from loading to the processing station. Bell does not teach the forms being round. Bagni teaches sock forms having a round form. It would have been obvious to one of ordinary skill in the art to modify the teaching of Bell in view of Bagni as round forms are commonly used in the sock art.

As to claims 14-15, Bell teaches a linear path of materials (Fig. 14). Bell does not teach the rotating path of materials. Bagni teaches a rotating path 8 for the forms. It would have been obvious to one of ordinary skill in the art to modify the linear path with the rotating path as it is merely a design choice.

As to claim 16, the loading station (Fig. 14) comprises stretching device 167.

As to claim 17-19, Bell teaches two pair (Fig. 14) retaining elements 164/166 that are movable in relation to each other which allow the stretching device to be inserted each associated with a pickup member.

As to claim 20, the arm 164/166 would oscillate from an open to closed position to present the device for the stretching element 167.

As to claim 21, the pair pickup member 166/167 are located between the retaining elments 164/166.

As to claim 22, Bell teaches suction pipes 105b used with retaining the elastic band.

As to claim 26-28, Bell teaches the device substantially above. Bell does not teach the use of a sensor to determine the orientation of the sock. Bagni teaches a sock 1 with a sensor 4 for determining the angular position of the sock. The members 6 are able to rotate the sock with respect to the sensor 4 using control software. It would have been obvious to one of ordinary skill in the art to modify the teaching of Bell with that of Bagni to provide for proper orientation of the socks during processing.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (WO 95/27097) in view of Cassinelli (US 4,487,546). Bell teaches the device substantially above. Bell does not teach the reversing device. Cassinelli teaches the sock machine with a reverse (Col 4 line 46-48) to put the machine to rest. It would have been obvious to one of ordinary skill in the art to modify the teaching of Bell with that of Cassinelli to put the machine in position for the next garment.

As to claim 25, Bell teaches the suction tube 105c.

Claims 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (WO 95/27097) in view of Davis (US 2,150,713). Bell teaches the device substantially above. Bell does not teach the stretching means including a polygonal configuration. Davis teaches a garment stretcher which has a polygonal configuration at the toe end of the article. It would have been obvious to one of ordinary skill in the art to modify the form of Bell with that of Davis as they are both forms.

As to claim 33 and 35, Davis teaches in Fig. 6 four tabs parallel to the axis of the tubular member.

As to claim 34, Davis teaches in Fig. 6 the cross section of the form being square.

Claims 47-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertram (US 5,904,279) in view of Bell (WO 95/27097). Betram teaches the device substantially above. Bertam does not teach the sensors as claimed. Bell teaches a multitude of sensors 140, 131, etc. for detected the edge of a sock. It would have been obvious to combine the device of Betram with the sensors of Bell as it is commonly known in the art to use sensors to detect the position of articles to determine activating or deactivating a piece of equipment.

As to claim 51, the valves 117, 118, etc, are capable of moving towards the tubular member to close the section off.

***Allowable Subject Matter***

Claim 36 and 39-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims assuming the applicant overcomes the 112 rejections above.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW SUTTON whose telephone number is (571)272-6093. The examiner can normally be reached on Monday - Thursday 7:00 am -5:00 pm and Friday 7:00 am - 11:00 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoa D. Huynh can be reached on (571) 272-4888. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AWS  
12 March 2012

/Shaun R Hurley/  
Primary Examiner, Art Unit 3765